



flew Family Law
Education for Women
Women's Right to Know

fodf Femmes ontariennes et
droit de la famille
Le droit de la femme à savoir

When Charges Are Laid In A Domestic Dispute – What To Expect

May 31, 2012

Tamar Witelson, Legal Director, METRAC
Karen Bellinger, lawyer, Downtown Legal Services



www.onefamilylaw.ca



METRAC

METRAC, the **Metropolitan Action Committee on Violence Against Women and Children**

- works to end violence against women, youth and children
- a not-for-profit, community-based organization

www.metrac.org

METRAC's **Community Justice Program**

- provides accessible legal information and education for women and service providers
- focuses on law that affects women, from diverse backgrounds, especially those experiencing violence or abuse

FLEW, **Family Law Education for Women** in Ontario

- provides information on women's rights and options under Ontario family law
- in 14 languages, accessible formats, online and in print

www.onefamilylaw.ca

Presenters

Tamar Witelson

Legal Director, METRAC



Karen Bellinger

Lawyer, Downtown Legal Services



Topics to be Covered

1. Police at the Scene of the Dispute
2. Victim/Witness Assistance Program
3. Bail Hearing
4. Can the Complainant Withdraw Charges?
5. Set Date Appearance in Court
6. Pre-Trial Meeting with Crown Counsel
7. Complainant Input Before Trial
8. Complainant's Role at Trial
9. Complainant Input After Trial
10. Peace Bonds
11. Additional Resources

Accurate as of the date of this webinar presentation: May 31, 2012



Example Scenario

Example Scenario

Marissa and Paul have been living together for 3 years. They have a son who is 1 year old.

They both work, but money is tight at the end of the month, and often that's when they quarrel, especially when he has been drinking.

Last week they were yelling at each other and Paul threw an empty bottle at Marissa. It missed her, but shattered on the wall.

She was shocked and a bit scared, so she called 911.

When the police heard what had happened and saw the broken glass, they charged Paul with assault.



Police at the Scene of the Dispute

Police at the Scene of the Dispute

- Police will look around, ask Marissa, Paul and neighbours questions
- Police will question Marissa and Paul separately
- Marissa and Paul should be honest and cooperative



Police at the Scene of the Dispute

Mandatory Charging

- based on reasonable and probable grounds
- police must lay a domestic assault charge
- police will charge and arrest the “dominant aggressor”

Dual Charging

- both Paul and Marissa could be charged
- only with police supervisor’s permission

Person who is Charged

- will go to police station for processing
- likely be released on conditions
- could be held until bail hearing

Complainant

- should get name and badge number of officer in charge



Victim/Witness Assistance Program

Victim/Witness Assistance Program

- Free Ontario government program
- V/WAP worker helps complainants after charges are laid:
 - Explains justice system and process
 - Prepares for court
 - Provides details about bail and probation orders
 - Helps with Victim Impact Statement
 - Arranges interpreters and other accommodations
 - Refers to counseling and safety resources

Victim/Witness Assistance Program

- V/WAP works with Crown Counsel
- No confidentiality with V/WAP worker or Crown Counsel
- Complainant's information may be shared with accused's lawyer

Victim/Witness Assistance Program

- Police or Crown Counsel will set up contact with complainant
- Or call directly
 - (416) 314-2447 (Greater Toronto Area)
 - 1-888-579-2888 (toll free)

<http://www.attorneygeneral.jus.gov.on.ca/english/ovss/programs.asp#vwap>



Bail Hearing

Bail Hearing

- “bail” is the temporary release of accused before trial
- “bail hearing” determines if accused kept in jail or released, maybe with conditions, before trial
- Accused must get a bail hearing within 24 hours of arrest
- Complainant should tell police if she is afraid, if accused is released

Bail Hearing

- Complainant rarely testifies at bail hearing
- Accused usually released on conditions
- Conditions usually include order for no contact with complainant
- Officer in charge usually tells complainant when accused is released and on what conditions

Can the Complainant Withdraw Charges?

- No, complainant cannot have charge withdrawn
- Police decide to lay a charge
- Police must lay a charge when they believe on reasonable and probable grounds that a domestic assault has occurred

Can the Complainant Do Anything to Help the Accused?

- Yes, complainant can write a letter to Crown Counsel
 - If she is not afraid of accused
 - If she wants him home
 - Avoid discussing details of the incident
 - Ask a criminal law lawyer for advice



Set Date Appearance in Court

Set Date Appearance in Court

- Accused goes to court
- Complainant does not go
- Purpose is to ensure all steps taken to resolve the charge
 - Full disclosure
 - Pre-trial
 - Date set for plea/Peace Bond/trial

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Photo options

Justice Coordinator, 25/05/2012



Pre-Trial Meeting with Crown Counsel

Pre-Trial Meeting with Crown Counsel

- Purpose is to determine how case will proceed
- Accused attends with lawyer
 - If accused accepts responsibility, then negotiate Peace Bond or sentence
 - If accused does not accept responsibility, then negotiate Peace Bond or proceed to trial
- Complainant does not attend
 - Will be contacted by Victim/Witness Assistance Program (V/WAP) worker for input

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Complainant Input Before Trial

Complainant Input Before Trial

- Complainant does not talk to Crown Counsel directly
- Complainant does talk to V/WAP worker
 - Afraid of accused
 - Afraid of what
 - Can give input about a Peace Bond, terms of probation
- Complainant does not have to talk to accused's lawyer (defence counsel)

Complainant's Role at Trial

- Complainant
 - Is a witness
 - Gives evidence under oath
 - Can review statement to police before testifying
 - Cannot look at statement during testimony
- Crown Counsel is not lawyer for the complainant
- Complainant may get a lawyer, but has to pay



Complainant Input After Trial

➤ Victim Impact Statement

- After accused is found guilty
- Complainant tells the physical, emotional, psychological, financial impact of the offence
- Cannot be about the character of the accused
- Complainant can read the Statement in court, or have someone else read it
- There is no cross examination on the Statement
- Make sure Crown Counsel knows that you want to give a Statement

Complainant Input After Trial

➤ Sentencing

- If Paul is convicted, won't likely go to jail, because incident was minor
- Most domestic assault sentences involve probation
 - "Probation" is a court order imposing conditions on the behaviour of convicted person

Complainant Input After Trial

➤ Probation

- Up to three years
- Keep the peace and good behaviour
- No contact with complainant, unless she gives written revocable consent
- Report to probation officer
- Usually required to attend Partner Assault Response Program (PAR)

Partner Assault Response (PAR) Program

- Educational counseling program
 - help abusers manage anger and alter behaviour
 - increase victim safety
- 16 week program
 - 2-hour sessions
 - Once a week

Partner Assault Response (PAR) Program

- Usually a condition of:
 - Pre-sentence bail
 - Probation
 - Conditional discharge
 - Parole
- Program completion usually required before a peace bond or conditional discharge



Peace Bonds

Peace Bonds

- A court order to keep the peace, imposing specific conditions on behaviour
- Sometimes Crown Counsel will withdraw a charge if a Peace Bond is signed



Peace Bonds

- in effect for up to 1 year
- Can consent, in writing, to allow contact with subject of Peace Bond
- Consent to contact can be orally withdrawn at any time
- Breach of Peace Bond is a criminal offence

Peace Bonds

- Available at any time, with or without a criminal charge
- Go to police or Justice of the Peace
- Must establish fear for your safety, your child, your property is reasonable
- May request conditions
- Keep a copy with you
- Not a guarantee of safety; part of safety plan

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Additional Resources

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Victim Crisis Assistance and Referral Services (VICARS)

- Immediate, on-site service to victims of crime 24 hours a day, 7 days a week
- Toll-free: 1-888-579-2888
- Toronto: 416-314-2447

Victim Support Line (VSL)

- province-wide, multilingual, toll-free information line providing a range of services to victims of crime
- Services available from 8 a.m. to 10 p.m., 7 days a week in 13 languages
- Toll-free: 1-888-579-2888
- Toronto: 416-314-2447

Court Prep

www.courtprep.ca

- provides information on the Canadian legal system and prepares victims and witnesses to give evidence

Ontario Justice Education Network

<http://www.ojen.ca>

Toronto: 416 947 5273

Resources (General)

Law Society of Upper Canada Lawyer Referral Service

<http://www.lsuc.on.ca/with.aspx?id=697>

- Toll-free: 1-800-268-8326
- Toronto: 416-947-3330
- TTY: 416-644-4886

Toolkit for a good Client-Lawyer Relationship

<http://schliferclinic.com/vars/legal/pblo/toolkit.htm>

- Barbra Schlifer Commemorative Clinic

Ministry of the Attorney General

<http://www.attorneygeneral.jus.gov.on.ca/english/>

- Toll free: 1-800-518-7901
- TTY: 1-877-425-0575

Find a community legal clinic near you

<http://www.legalaid.on.ca/en/contact/contact.asp?type=cl>

211 Canada.ca

<http://211canada.ca/>

Resources (Family)

Assaulted Women's Helpline

www.awhl.org

- Toll-free: 1-866-863-0511; TTY: 1-866-863-7868
- Toronto: 416-863-0511

Legal Aid Ontario

<http://www.legalaid.on.ca/en/getting/default.asp>

- Toll-free: 1-800-668-8258; TTY: 1-866-641-8867
- Toronto: 416-979-1446 (accepts collect calls)

Family Law Information Program (FLIP)

<http://www.legalaid.on.ca/en/getting/flip.asp>

Family Law Information Centres (FLICs)

http://www.legalaid.on.ca/en/getting/type_family.asp

Family Law Services Centres (FLSCs)

<http://www.legalaid.on.ca/en/contact/contact.asp?type=flsc>

FLEW (Family Law Education for Women)

<http://www.onefamilylaw.ca/en/resources/>

Ontario Women's Justice Network (OWJN)

www.owjn.org